

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  INTERSTATE POWER AND LIGHT COMPANY	DOCKET NO. EPB-02-150
---	-----------------------

**SECOND ORDER REGARDING MUTUAL ISSUES**

(Issued December 12, 2002)

At the hearing on December 9, 2002, when asked whether the parties objected to the proposal to decide the mutual issues<sup>1</sup> in Interstate Power and Light Company's (IPL) rate case, Docket. Nos. RPU-02-3 and RPU-02-8 (the rate case), and not in this docket, the Iowa Department of Natural Resources (IDNR) objected, unless it was allowed to intervene in the rate case. The IDNR stated it wished to intervene in the rate case with respect to the two issues for three limited purposes: 1) to preserve the IDNR's right to appeal the decision on the two issues; 2) to retain the right to brief the two issues; and 3) to retain the ability to cross-examine witnesses regarding the two issues if another party raised either of the issues at the hearing to be held in January in the rate case. IDNR stated that if it were allowed to intervene in the rate case, it did not plan to introduce evidence at the January

---

<sup>1</sup> The mutual issues were discussed in an Order issued in this docket on December 3, 2002. The two issues are: 1) the appropriate depreciation schedule(s) for the capital costs related to the Combustion Initiative (CI); and 2) whether the CI expenses for M.L. Kapp Unit 2 for the period April 1, 2002, through December 31, 2002, should be approved.

hearing, other than retaining the right to cross-examine on the two issues if another party raised either or both of them<sup>2</sup>.

On December 10, 2002, the Office of Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed a response, in which it stated, among other things, that it agreed with IDNR that IDNR's right to due process would only be preserved if the Board allowed IDNR to participate in the rate case with regard to the joint issues, and that Consumer Advocate has no objection to the Board granting IDNR's forthcoming petition to intervene in the rate case.

A briefing schedule has been set in this docket, and the parties need to know whether to brief the two issues. Assuming the IDNR files a petition to intervene in the rate case, the Utilities Board (Board) will decide whether to grant the petition. Since the Board has not yet done so, it is difficult to make a decision regarding whether the two issues will need to be decided in this case.

Without making a decision, the parties are instructed that they do not need to brief the two issues in this case. Once the Board makes a decision regarding IDNR's petition to intervene in the rate case, a decision regarding whether the two issues will be decided in this case will be made. If necessary, the parties will be given the opportunity to brief the two issues at that time.

---

<sup>2</sup> IDNR understands that the two issues were already litigated in the rate case at a prior hearing.

**IT IS THEREFORE ORDERED:**

1. A decision regarding whether the two issues will be decided by the Board in IPL's rate case, Docket Nos. RPU-02-3 and RPU-02-8, and not by the undersigned in this proceeding, will be made after the Board rules on IDNR's petition to intervene in the rate case.

2. Pending this decision, and the Board's ruling on the petition to intervene in the rate case, the parties are instructed that they do not need to brief either issue in the briefs to be filed January 17 and 24, 2003.

**UTILITIES BOARD**

/s/ Amy L. Christensen  
Amy L. Christensen  
Administrative Law Judge

**ATTEST:**

/s/ Judi K. Cooper  
Executive Secretary

Dated at Des Moines, Iowa, this 12<sup>th</sup> day of December, 2002.